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REMARKS

The Examiner has rejected Claims 1-18 under 35 U.S.C. 112, second paragraph. The claims have been amended to clarify what is being claimed, thus rendering such rejection moot.

The Examiner has rejected Claims 1-20 under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. The claims have been amended to clarify what is being claimed, thus rendering such rejection moot.

Specifically, in response to the Examiner's argument that the claims allegedly include no significant recitation of the data processing system or calculating computer for performing data processing operations, applicant respectfully disagrees, but has nevertheless clarified the claims to further emphasize the data processing system or calculating computer for performing data processing operations.

Still yet, the Examiner has issued a double patenting rejection, provisionally rejecting the claims under 35 U.S.C. 101 as claiming the same invention as claims 1-20 of copending Applicant No.: 10/644,949. This rejection is deemed moot in view of the terminal disclaimer submitted herewith.

The Examiner has further rejected Claims 1-20 under 35 U.S.C 102(e) as being anticipated by Delurgio et al. (US 6,553,352). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove.

Specifically, the Examiner relies on Figures 2-5 from Delurgio to meet applicant's claimed "identifying a result of utilizing the optimal price," and "reacting" (note each of the independent claims).

Applicant respectfully disagrees with this assertion, since, after a careful review of the entire Delurgio reference, there is simply not even a suggestion of any

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sort of feedback, as claimed by applicant, in the context of generating an optimal price.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Delurgio reference. A notice of allowance or specific prior art showing of each of the foregoing claim elements (including specific prior art citations), in combination with the remaining claimed features, is respectfully requested.

Despite the foregoing paramount deficiencies in Delurgio and in the spirit of expediting the prosecution of the present application so as to bring closure to this matter, applicant has amended each of the independent claims to include the following limitations:

"generating an optimal price, utilizing a processor of a computer system, wherein the optimal price is generated by receiving a plurality of prices associated with a price-frequency mathematical distribution, a number of competitors, a business objective, and a cost associated with a good or service, via an input device coupled to the processor of the computer system; and calculating the optimal price based on the prices, number of competitors, business objective, and cost associated with the good or service, utilizing the processor of the computer system;

identifying an expected result of utilizing the optimal price, utilizing the processor of the computer system;

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reacting by adjusting the price-frequency mathematical distribution
based on a difference between the expected result and an actual result,
utilizing the processor of the computer system; and
outputting the optimal price for aiding in achieving the business
objective, utilizing an output device coupled to the processor of the computer
system” (emphasis added).

Such emphasized limitations further distinguish Delurgio for at least the following reasons, which are set forth for illustrative purposes:

Delurgio does not even suggest any sort of generation of an optimal price based on “a price-frequency mathematical distribution,” as claimed.

After a careful review of Delurgio, it is strongly noted that Delurgio is completely deficient in this regard. The Examiner should not confuse Delurgio’s mention of “...estimated product demand...” as being the same as “receiving a plurality of prices associated with a price-frequency mathematical distribution” (see each of the independent claims). As one of ordinary skill would understand, an “estimated product demand” in this context is a historical relationship of price to the number of units sold of a product by the supplier attempting to optimize price. For example, an estimated demand for the supplier attempting to optimize price could be that if the supplier prices at \$1, the supplier historically sold 10,000 units, and if the supplier prices at \$1.10, the supplier historically sold 9,500 units, and so on.

In contrast, a price-frequency mathematical distribution is a frequency count of prices (e.g. competitor prices, etc.) observed. So for example, a price-frequency mathematical distribution may optionally be as follows: price a product 100 times at \$1, 120 times at \$1.10, 150 times at a \$1.20, and so on.

Thus, a “price-frequency mathematical distribution” is not the same as an “estimated demand.” The two terms refer to completely different relationships.

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Delurgio does not even suggest any sort of "number of competitors," as claimed.

The significance of this omission is clear when considering the following example. If a supplier determines the optimal price to sell their product is \$35.00 with a single competitor, the presence of twenty competitors would result in the supplier's optimal price being likely lower. Delurgio's disclosure is completely void of any language referencing the number of competitors.

A notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Still yet, applicant brings the subject matter of the newly added dependent claims to the Examiner's attention, for full consideration.

Yet again, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. For payment of any fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. ABE1P002).

Respectfully submitted,

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